

MT LEGISLATIVE HISTORY

Chapter 46 19 74

Bill (H) 787 S _____

Original bill & hist. C

H. Committee on Labor and Employment

S. Committee on Labor and Employment

Hearing Date(s) JAN 25 ✓ C

Hearing Date(s) FEB 11 ✓ C

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Date Out Jan 25 ✓ C

Feb 11 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

LABOR AND EMPLOYMENT COMMITTEE

43rd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
782	Prohibit employment of professional strike-breakers in a labor dispute . .	1/12/74	2/13/74		2/15/74	DO PASS AS AMENDED	
787	Prohib.an employer from requiring a lie detector test for an employee or prospective employee.	1/12/74	1/25/74		1/25/74	DO PASS	
812	Amend definition of husband or widower in Workmen's Compensation Act.	1/15/74	1/18/74		1/18/74	DO PASS	
823	Amend provision for accumulation of annual vacation leave for public officers & employees.	1/15/74	1/18/74		1/18/74	DO PASS	
842	Clarify method of appointment to the Board of Personnel Appeals.	1/15/74	1/18/74		1/18/74	DO PASS	
843	Amend payment of WC's burial expenses by increasing from \$500 to \$1,500.	1/15/74	1/18/74		1/18/74	DO PASS	

HOUSE BILL #1059 -- SPONSOR: Rep. James Burnett. This bill intends to bring up equal pay for equal work. He introduced Major Duffy and Schneider, who were neither proponents or opponents to the bill, but were present to answer questions. Mr. Joe Crosswhite, Operating Engineers in Montana, said he was neither for or against, but that he had a few questions. He wanted clarification as to his "people" who may be put out of work if the National Guard were called in because they are usually called in to operate the machines. Ernie Post, AFL-CIO, said he wondered whether the National Guard would be called in as strikebreakers and have to cross picket lines. Questions. Rep. Colberg asked if the guardsmen would receive the same wages as civilians who may be in the higher-responsibility jobs; Rep. Burnett replied "yes." Rep. Kimble asked about overtime because there is no concept of overtime in the military. Rep. Burnett said he didn't feel the guardsmen should be penalized for this, and as for the cost of this, he said no one could predict how much will be involved in an emergency situation. Rep. Bennetts asked if the guardsmen would receive the same pay if the wages were lower. Rep. Burnett replied that this bill applies to enlisted men in providing for equal wages.

HOUSE BILL #787 -- SPONSOR: Rep. Dorothy Bradley. This bill prohibits an employer from requiring a lie detector test as a condition for employment or continuance of employment. It is important because of the Montana Constitution for the right of privacy. She introduced Rep. Towe who said he has done research on this, and is introducing HB #1024 which concerns privacy, and one section of it does relate to lie detectors. There are 12 states that outlaw lie detector tests for conditions of employment. Mr. Tony Softich, Labor Standards Division, said there are many commercial stores in Montana that use lie detector tests. Miss Judy Miles, Helena, testified that she did not get a job when she refused to take a lie detector test from a Circle K store. Ernie Post, AFL-CIO, said they supported this for unions and for those people without unions to process their problems. Rep. Tierney added that lie detector tests are not infallible.

HOUSE BILL #907 -- SPONSOR: Rep. Jerry Lombardi. This is a "house-cleaning" bill that replaces HB #505 that was held-over from last session. It was recommended by the Department of Labor. Mr. Tony Softich, Labor Standards Division, whose statement is enclosed, said that HB #907 would allow the commissioner of labor and industry to apply directly to a district court to have his determination enforced by either a district court order or judgment. If they have this remedy available, they would have a civil remedy that could be enforced in a court above and beyond going to the county attorney.

The following action was taken:

HOUSE BILL #787 -- Rep. Lombardi moved that HOUSE BILL #787 DO PASS. Rep. Tierney seconded. Discussion followed. Rep. Bell asked who the bill was trying to protect. Rep. Flynn asked why lie detectors shouldn't be banned in the state if they are so harmful. Rep. Colberg said lie detector tests ask irrelevant questions of an individual's personal life, and therefore, are an invasion of privacy. Rep. Tierney said irrelevant questions must be asked to determine how a person responds, so his responses can be recorded accurately. Motion that HOUSE BILL #787 DO PASS carried with Reps. Bell, East, Flynn, and Turner opposed.

FORTY-THIRD LEGISLATIVE SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
HB 654	1-24	2-11	2-11				2-11		
HB 735	2-13	2-13							
HB 787		2-11	2-11					2-11	
HB 782	2-22	2-27, 3-4							
HB 802		2-22, 2-25	2-26					2-26	
HB 812	1-24	2-11	2-11				2-11		
HB 842	1-24	2-11	2-11				2-11		
HB 843		2-18, 2-20, 2-22	2-22					2-22	
HB 881									
HB 907		2-18, 2-20, 2-25	3-1				3-1		
HB 915	1-31	2-18	2-18				2-18		
HB 925		2-18	2-18				2-18		
HB 928	1-31	2-20, 2-22, 2-25	2-25				2-25		
HB 991		2-27, 3-4	3-4				3-4		
HB1032	2-22	3-6, 3-6	3-7					3-7	
HB1040		2-20, 2-25 3-4	2-20 3-4					2-20 3-4	
HB1095		2-22, 2-25	2-25						2-25

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 11, 1974

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius on the above date in Room 402 of the State Capitol Building at 8:30 a.m.

ROLL CALL: All members of the committee were present with Senators Keenan and Bennett absent.

CONSIDERATION OF HOUSE BILL NO. 654: Representative Lynch appeared before the committee on this bill. This bill just prohibits discrimination against the physically handicapped.

Safety precautions were added in the House committee which is page 5, line 8 through 12. This bill will aid in many ways to eliminate the injustices that have occurred in the past.

Jim Murray of the AFL-CIO urges favorable consideration to House Bill 654.

J. . Carver, Administrator of Rehabilitative Services Division stated that every handicapped person wants the chance to produce and be a self-supporting citizen in the community. Urged the committee's support of HB 654.

Tony Softich of the Labor Standards Division urges support of HB 654. There have been many complaints to this division from handicapped persons. There are many places where these people could be utilized as long as they are not harmful to other employees. Mr. Softich included the slightly mentally retarded, however, Mr. Lynch said this bill does not include the mentally retarded, only the physically handicapped. This bill is drafted after the New Jersey statute.

CONSIDERATION OF HOUSE BILL 787: This bill would protect a person's right to privacy. Ms. Bradley explained the workings of a polygraph. These machines can be fouled up by a person trained in this art. An innocent person, because of emotions, could be labelled as a liar. Massachusetts was the first state to prohibit the use of polygraphs in 1949; 11 states have followed suit. The State Department abolished the use of lie detectors in 1952. There are two areas that are objected to in the use of lie detectors; scientific and civil rights.

Mr. Softich stated that his division had had complaints from persons being requested to take lie detector tests at the time of application for employment. There is nothing in the statutes to prohibit an employer from requiring a lie detector test. He felt this was the greatest invasion of a person's privacy. Urges support of this bill.

Ernie Post supported House Bill 787.

Senator Moore asked if this bill would include state government. Ms. Bradley stated that it was her intention that it would, however, Senator Moore stated that it was not so stated in the bill. Senator Lowe asked Ms. Bradley if she was concerned about the qualifications of the person applying for a position or the method by which these qualifications are disclosed. She answered that the method of disclosure was her main

concern but also the possibility of self incrimination.

Senator Bertsche stated that a lot of this information could be obtained by the employer checking with creditors and former employers without the lie detector test. The word "mechanical" should be inserted in the bill. Ms. Bradley had no objection to an amendment.

Senator Shea wondered why there was nothing in the newspapers if there has been complaints to the labor standards division. Mr. Softich stated that it is not the place of the division to publicize this and the division could be in a position for a libel suit if it did so.

CONSIDERATION OF HOUSE BILL 812: Representative Baeth appeared before the committee to explain that this bill is simply cleaning up the language in the bill. Senator Jensen stated that this is another ERA bill. It is just putting the husband in the same position as the wife is now.

CONSIDERATION OF HOUSE BILL 842: Karen Roberts of the Governor's office appeared in place of Mr. McKittrick who had to leave before the meeting came up for discussion. This bill would just clarify the appointment to the appeals board. The appointment must be confirmed by the Senate, one member must be a lawyer, the Governor designates the chairman, 3 members will serve concurrently with the Governor and the other 2 during the interim. There is only one personnel appeals board. This has nothing to do with workmen's compensation. That would be taken care of by the labor appeals board. This personnel appeals board would interpret the collective bargaining act. They are two entirely different boards.

DISPOSITION OF HOUSE BILL 842: Senator Bertsche moved that HB 842 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL 812: Senator Jensen moved that HB 812 BE CONCURRED IN, seconded by Senator Bertsche. MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL 787: Senator Bertsche moved that HB 787 be amended in the title of the bill on line 5 at the end of the line by inserting the word "MECHANICAL" and amend on page 1, line 15 by deleting the words "so-called" and inserting in lieu thereof the word "mechanical". Motion seconded by Senator Shea. MOTION CARRIED UNANIMOUSLY THAT THE AMENDMENTS BE ADOPTED. Senator Flynn moved that House Bill 787 AS SO AMENDED, BE CONCURRED IN, seconded by Senator Bertsche. MOTION CARRIED with Senators Jensen, Lowe, Moore and McNamer voting no.

DISPOSITION OF HOUSE BILL 654: Senator Bertsche moved that HB 654 BE CONCURRED IN, seconded by Senator Moore. MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 9:45 a.m.


GEORGE SIDERIUS, Chairman

ROLL CALL

LABOR & EMPLOYMENT COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974

Date 2/1/74

NAME	PRESENT	ABSENT	EXCUSED
Jensen, Art	✓		
Bertsche, Bill			
Flynn, Elmer	✓		
Keenan, P.J.			
Shea, Jimmy	✓		
Bennett, George			
Himsl, Matt	✓		
Lowe, Bill	✓		
Moore, Jim	✓		
McNamer, William	✓		
Siderius, George	✓		

COMMITTEE ON _____ BILL NO. _____

Bill 10.

VISITOR'S REGISTER

[illegible]

Section 1. Section 4-171, R.C.M. 1947, is repealed.

Approved February 26, 1974

CHAPTER NO. 46

AN ACT PROHIBITING AN EMPLOYER, EXCEPT LAW ENFORCEMENT AGENCIES, FROM REQUIRING AN EMPLOYEE OR PROSPECTIVE EMPLOYEE TO TAKE A MECHANICAL LIE DETECTOR TEST AS A CONDITION OF OBTAINING OR CONTINUING EMPLOYMENT; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. **Lie detector tests — when prohibited.** No person, firm, corporation or other business entity or representative thereof, shall require as a condition for employment or continuation of employment any person to take a polygraph test or any form of a mechanical lie detector test. A person who violates this section is guilty of a misdemeanor.

Section 2. This act shall not apply to public law enforcement agencies.

Section 3. This act is effective upon its passage and approval.

Approved February 26, 1974

CHAPTER NO. 47

AN ACT TO AMEND SECTION 82A-1014, R.C.M. 1947, TO CLARIFY THE METHOD OF APPOINTMENT TO THE BOARD OF PERSONNEL APPEALS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82A-1014, R.C.M. 1947, is amended to read as follows:

"82A-1014. **Board of personnel appeals created.** (1) There is created a board of personnel appeals.

(2) The board is allocated to the department of labor and industry for administrative purposes only as prescribed in section 82A-108.

(3) The board consists of five (5) members appointed by the governor. Two (2) members shall represent management, two (2) members shall represent employees or employee organizations of the state, and one (1) member shall represent a neutral position.